

Products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL).

June 21, 2001

Dear Xxxxx:

This letter is in response to your letter dated April 17, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

COMPANY is a laboratory that manufactures dental prosthetics which are sold to dentists. Currently we are charging sales tax of 1% for the majority of all of our dental prosthetics. We also manufacture a night guard, also known as a bite splint or plastic mold, for use at night by bruxism patients.

As a result of an audit by the Illinois sales tax department in 1999, we have been charging and collecting the 6.25% rate for these night guards. We have been getting questions by dentists on why we are charging this higher rate when other customers are not charging this rate for the same type product.

Please issue a statement or ruling on the correct sales tax rate we should be using for this particular product. Again the product is a plastic molding that is worn a night by bruxism patients to prevent teeth grinding.

Please give me a call if you have any questions. I appreciate your help with this matter.

DEPARTMENT'S RESPONSE:

We have enclosed a copy of 86 Ill. Adm. Code 130.310 regarding the taxation of Food, Drugs, Medicines and Medical Appliances. Those products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. Examples of items that qualify for the reduced rate

are artificial limbs, dental prostheses and orthodontic braces, heart pacemakers, crutches and orthopedic braces, and wheelchairs.

As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2). Based upon the limited information in your letter, your company is applying the correct tax rate (6.25% general merchandise rate) for the night guards. The night guards are used to prevent teeth grinding and would generally be considered to be used for treatment purposes rather than for use in directly substituting for a malfunctioning part of the body.

You may want to provide a copy of this letter to the dentists that have raised this issue with you. Please feel free to notify the Department of a dental lab that is incorrectly charging the low rate of tax on these items.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.